UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEVE SANDS,

                    Plaintiff,

      v.

THE BUFFALO NEWS, INC.,

                    Defendant.

Case No. 1:17-cv-04265-VEC

DECLARATION OF ROBERT CLARY

I, ROBERT CLARY, declare, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1.   I am a managing partner of Secure Network Technologies, Inc. ("SNT"), a full-service information security firm providing both security services and investigative services. In its investigative capacity, SNT provides (1) computer forensic services, the identification and collection of digital evidence while maintaining chain of custody; (2) mobile forensics, the retrieving of data from mobile devices; and (3) digital investigations, the investigation of employees' network activity (collectively, "Investigative Services").

2.   Over the past 20 years with SNT I have performed digital forensics and investigations for dozens of businesses and government entities. The businesses include banks, insurance companies, manufacturers, and hospitals. The government entities include state, county, and local governments and federal agencies and departments. I have authored network forensic software that is used by law enforcement agencies around the world.

3.   In December 2017 I was contacted by the E-Discovery Department of Bond, Shoeneck & King (BSK) and asked my opinion whether metadata could be gathered from multiple emails displayed as a thread in a single email. I indicated that the metadata for the emails could only be accessed in the original email. Beginning in or about January of 2018, SNT was retained by BSK to provide digital forensic services to examine email metadata.   I performed the digital forensic services on behalf of BSK, and therefore have specific knowledge about the facts and circumstances set forth herein.

4.   BSK provided 3 emails in two formats (text and eml, both of which are plain text formats) to SNT for examination of the embedded message data (metadata). These emails were forwarded to BSK from 'RL@liebowitzlawfirm.com" then forwarded to me. Upon receipt of the emails, each was examined using software called MailRaider and AccessData Forensic Toolkit.

5.   These emails contain the following information from the headers/metadata:

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Date: Thu, 14 Sep 2017 03:08:55 -0400
Delivered-To: richardpliebowitz@gmail.com
X-Gmail-Original-Message-ID: <CAPg6NOMyvmZnajw2q5ZL=Sw7960Bi+T8jU3G8WfN6n2QQOQ-Aw@mail.gmail.com>
Message-ID: <CAPg6NOMyvmZnajw2q5ZL=Sw7960Bi+T8jU3G8WfN6n2QQOQ-Aw@mail.gmail.com>
Subject: Re: Sands V. The Buffalo News Inc. Settlement discussions
From: Richard Liebowitz <RL@LiebowitzLawFirm.com>
To: "Giglia, Joseph" <JGiglia@buffnews.com>
Cc: "Luedke, Sandy" <SLuedke@buffnews.com>
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Date: Wed, 12 Jul 2017 01:31:42 -0400
Delivered-To: richardpliebowitz@gmail.com
X-Gmail-Original-Message-ID: <CAPg6NOOSEBwhK1xQQF-i6kce9_TR06jvY+GsX_PjvyVH8=VDQ@mail.gmail.com>
Message-ID: <CAPg6NOOSEBwhK1xQQF-i6kce9_TR06jvY+GsX_PjvyVH8=VDQ@mail.gmail.com>
Subject: Re: Sands V. The Buffalo News Inc. Settlement discussions
From: Richard Liebowitz <RL@LiebowitzLawFirm.com>
To: "Giglia, Joseph" <JGiglia@buffnews.com>
Cc: "Luedke, Sandy" SLuedke@buffnews.com
```

Date: Tue, 13 Jun 2017 13:33:28 -0400
Delivered-To: richardpliebowitz@gmail.com
X-Gmail-Original-Message-ID: <CAPg6NOMJdP1fg7ju7zg3MyJ3-i-YrurY-STu8PBw6aNgXfvO=Q@mail.gmail.com>
Message-ID: <CAPg6NOMJdP1fg7ju7zg3MyJ3-i-YrurY-STu8PBw6aNgXfvO=Q@mail.gmail.com>
Subject: Re: Sands V. The Buffalo News Inc. Settlement discussions
From: Richard Liebowitz <RL@LiebowitzLawFirm.com>
To: "Giglia, Joseph" <JGiglia@buffnews.com>
Cc: "Luedke, Sandy" <SLuedke@buffnews.com>

6.   Liebowitz Law Firm, PLLC uses the domain name liebowitzlawfirm.com and their Domain Name Service (DNS) Mail record (MX) resolves to a mail service "Protomail" aka "MailAnyone.net". This can be determined using an internet service called MXToolbox. Below is a screen shot of the results for RL@LiebowitzLawFirm.com.

mx:liebowitzlawfirm.com

Pref	Hostname	IP Address	TTL	
10	mx.mailanyone.net	72.35.12.4 Savvis (AS16941)	12 hrs	Blacklist Check

	Test	Result
❌	DMARC Record Published	No DMARC Record found
✅	DNS Record Published	DNS Record found

Your email service provider is "Mail Anyone" Need Bulk Email Provider Data?

7.   These emails do not appear to be the original emails from the RL@LiebowitzLawFirm.com account but appear to have been Bcc'd or sent to richardpliebowitz@gmail.com and do not contain any of the original metadata from Protomail or the originating mail program (i.e. Mac Mail, Outlook etc.). These emails contain data only from the receiving email account (richardpliebowitz@gmail.com).

8.   Metadata from the original source of the email will contain information about the creation and sending of the email but will not indicate whether it was received by the recipient's server or their mail program.

9.   Forensic analysis of these emails was limited because they only contain receiving metadata from the richardpliebowitz@gmail.com as opposed to sending metadata from the original email.

I declare under penalty of perjury that the foregoing Declaration is true and correct to the best of my knowledge.

EXECUTED on January 25, 2018.
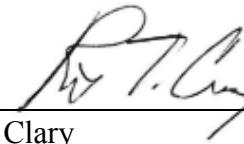
_____
Robert Clary
Secure Network Technologies, Inc.
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Syracuse, NY 13202